



FINAL MEETING SUMMARY

DEVELOPMENT CODE REVIEW COMMITTEE

Monday, March 2, 2015

2:00 PM – 4:00 PM

Meeting hosted by:

- Don Elliott, Clarion Associates
- Kristin Cisowski, Clarion Associates

Development Review Committee Members Present

- Don Callahan
- Laura Smith
- Mychal Gorden

Development Review Committee Members Absent

- Jerry Johnson
- Suzannah Ballard

Staff Present

- Stuart Schmeling, Senior Planner
- Diane Libby, Management Specialist

Mr. Elliott welcomed the Committee and stated that today's meeting is to talk about the Development Code Update, which is happening on a parallel track to the General Plan Update. The General Plan Update is almost done, in the sense that the next meeting will be to begin the process of discussion and adoption. The Development Code process is a little over half done and we are delivering another module of this to discuss today. This is Module 2 and it is a meaty module.

Mr. Elliott stated he would present a PowerPoint slideshow on the highlights of the Development Code Update. He stated that he felt it would be easier to ask questions if he went through the highlights first.

Mr. Elliott began the presentation with a narrative update related to the following topics:

Project Overview

- General Plan Update
 - Clarify and redefine Lake Havasu City's future vision
 - Include new elements required under Arizona law
 - Align with updated Code
- Development Code Update
 - Implement new vision
 - Improve code structure and content
 - Increase user-friendliness
 - Streamline administration
 - Address code enforcement issues

Development Code Overview

- Initial Scoping & Direction
- Code Enforcement Options
- Evaluate Development Code
- Staff Drafts of Development Code (3 Modules)
- Public Drafts of Development Code (3 Modules)
- Refinement & Adoption

Before continuing with the presentation, Mr. Elliott wanted to share some history regarding the R/UDAT (Regional/Urban Design Assistance Team) study. He stated that the process came up with a lot of recommendations which there is general public support for. No one has told us to "not implement the R/UDAT". The way it was implemented through a series of overlay and general zoning districts, especially in the downtown area of the City, was really complicated.

We were told one of the priorities of the City was to simplify that system and to make it more understandable. We think we have figured out a much simpler way of achieving the character that you wanted in those areas that came out of the R/UDAT process. One of the serious problems that Kristin and I found when we were trying to understand what you have today was that some of the new zone districts had been adopted. They don't say that they are overlay zone districts. They act as if they are base zone districts, but the base zone districts were never removed. There was a lot of confusion as to which of these two sets of rules actually apply in this case. There was also a sense that the level of design control that was put in those districts was very high.

Mr. Elliott then turned the floor over to his colleague, Kristin Cisowski, to walk through the goals of Module 2 and speak about the proposed zoning districts.

Ms. Cisowski continued the presentation with the following topics:

Module 2 Goals

- Simplify overlapping/inconsistent districts
- Retain and implement the R/UDAT vision
- Make consistent with federal and state laws
- Improve user-friendliness with tables and graphics

Permitted Uses

- Consolidate and reorganize the permitted uses in each zoning district (Permitted Use Table)
- Consolidate and strengthen use-specific standards associated with certain uses

Zoning Districts

- Propose consolidation to 3 zoning districts - Residential, Mixed Use & Special Purpose, and Overlay

Residential Zoning Districts

- Consolidate multiple-family districts (R-3 and R-M)
- Create higher density residential districts for existing special purpose areas (R-UMS, CHD, SGD)

Committee's summarized comments/concerns (not limited to):

- Concern regarding the proposed consolidation of R-2 and R-3, which have different densities. There was discrepancy in what the Code said and what the chart said. R-2 was intended to be 2-4 and R-3 was intended to be 4-10
- Positive comments regarding combining R-2 and R-3 were expressed by several members, acknowledging that the densities should be reviewed and possibly adjusted.

Ms. Cisowski continued the PowerPoint slideshow, touching on:

Mixed-Use Districts

- Consolidate existing (but unused) small-scale, mixed-use districts to allow convenient, neighborhood businesses in a residential area (MU-N)
- Integrate the subzones of special purpose, form-based districts, allowing a mixture of uses, into single mixed-use districts (MU-UMS, MU-CRW)
- Special purpose, form-based district consolidation
- MU-UMS example
- Special purpose, form-based district consolidation
- MU-UMS example continued
- Align existing UMS subareas, current zoning, and new MU-UMS district

Committee's summarized comments/concerns (not limited to):

- Concern expressed regarding adding residential to mixed-use districts including fear of loss of buffer zones
- Positive comments expressed supporting the consolidations due to the diversity in areas and increase of buffer zones
- Positive feedback provided regarding proposed expansion of the proposed MU-UMS core to include the ASU campus area

Special Purpose Districts

- Identify nonresidential districts rather than "special" development areas
- Retain existing commercial districts (C-1, C-2)
- Eliminate M-1-P and create BP
- Consolidate A-1, C-P, BB, and I in new C-P

Overlay Districts

- Use for context sensitive, unique areas
- Trump underlying base zoning districts

- Carry forward AP
- Consider eliminating NKC?
- Simplify and reclassify the PD permitting process as an overlay district

Committee's summarized comments/concerns (not limited to):

- Concern expressed regarding proposed consolidation of A-1 to Conservation Preservation and the future impact that could have on development
- Pros/cons were expressed regarding keeping or removing the North Kiowa Commercial area

Mr. Elliott continued with the presentation moving on to:

Permitted Uses

- Create a Permitted Use Table
 - All uses identified
 - Broader, more flexible categories
 - Use-Specific Standards
- Adult businesses
- Telecommunications facilities
- Medical marijuana facilities
- Dwelling, co-housing
- Dwelling, vacation rental
- Continuing care retirement community
- Community gardens

Mr. Elliott walked the Committee through how to read and use the new table. He provided examples and situations that could arise and how you would apply the table data in each of those cases.

Mr. Elliott stated they have tried to clarify and align group home living with the State of Arizona and the law of the United States. Under Arizona law, a small group home is the same as a single family dwelling and you need to treat it that way. We have tried to be very clear. State law says if you've got group living for less than 6 persons it needs to be treated as a single family home. Anywhere that you would allow a single family house. It is limited to 6 people, and they can be unrelated.

The Federal Fair House Act says there are classes of protected people. Your Code right now does not align with that. We are recommending that you align it with the federal definition of who is protected. You can't discriminate based on age, race, sex, familial status, or handicap. Under Arizona law you have to treat it as Arizona's definition of a single family house. Under the federal definition a group home for recovering drug or alcohol users is protected. I don't think it is under Arizona law right now. You could be aligning with Arizona law and you still could get sued for violating federal law because those people have a federal right to live in a single family house. We are recommending to Lake Havasu City that you come into compliance with federal law so that you don't get sued for violating that. No conditional use permit is required for the small group homes.

Large group homes are more than 6 persons and a residential care facility. You don't have to do this. But we don't advise that, because the day may come and you would get sued under the Federal Fair House Act and you will wish you hadn't done it. Residential care facilities are allowed in the commercial districts. With the residential care facilities you have more freedom to determine where facilities of that size fit. Federal law

requires that you provide “reasonable accommodation” which means the day an attorney comes in and says I am requesting 8 even though your thing says 6, you don’t have to have in your Code how you are going to handle it but you have to give a reasonable answer.

Mr. Elliott and the Committee discussed the pros/cons of various scenarios regarding the small and large group homes. At the conclusion of the discussions, the Committee requested that Mr. Elliott remove the conditional use option for residential care facilities from R-E, R-A, and R-1.

Accessory & Temporary Uses

- Better distinguish primary from accessory land uses
- Replace many narrowly-defined accessory uses with broad “customary accessory use” category
- Remove temporary uses (e.g., filming activities) not requiring a development code permit

Next Steps

- Staff & Public Drafts of New Code
 - Module 3 Form & Development Controls (Spring 2015)
 - Adoption draft (Summer 2015)
- General Plan Update is under way too!
 - Next Public Review of General Plan (March 17 & 18, 2015)

Ms. Smith raised concern regarding the RA dwelling units per acre. She is of the opinion it was intended to be one, and the proposal is for two.

Mr. Elliott stated it was carried forward from the existing Code, but they would be happy to check it for accuracy.

Mr. Gorden requested Mr. Elliott expand on the proposed Planned Development ordinance.

Mr. Elliott stated that they have carried it over, but right now it sounds like a development permit and most cities don’t use it that way. They use it as either a base zoning district or an overlay district. We talked to staff and they said we intend to use it to modify certain aspects of development such as height or density, and leave the remainder as is. You had 10 different subareas and we have never seen that. Most places keep it and are careful to define if it is a base or overlay district. Does it supplement or replace the other zones? They generally have one version. Most modern codes say it is just PD. It will be negotiated. Let’s call it one thing, tell you what it is, you go in and make your pitch and you either get it or you don’t get it. We are not trying to get rid of it, but we have tried to clarify and simplify it.

Mr. Gorden was supportive of how the draft is written. He stated there are details to get into, minor or major variances and amendments and those things are dealt with and going forward with time frames and stuff like that.

Mr. Elliott concluded the meeting at 4:10 PM.

After the meeting was concluded, one citizen in the audience expressed concern that the peoples’ wishes from the 2002 surveys are not being carried forward.